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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,931	01/16/2001	Bi Le-Khac	01-2532B	4319

24114 7590 10/22/2003

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EXAMINER

ZALUKAEVA, TATYANA

ART UNIT PAPER NUMBER

1713

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/760,931	<b>Applicant(s)</b> BI LE-KHAC ET AL	
	<b>Examiner</b> Tatyana Zalukaeva	<b>Art Unit</b> 1713	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

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### **DETAILED ACTION**

1. Applicants' amendment after Final rejection has been entered.

#### ***Response to Amendment***

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

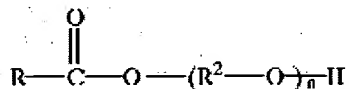
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 1-5, 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by McDaniel et al (U.S. 6,034,208).

McDaniel discloses a continuous method (col.8, lines 38-41) of copolymerization of unsaturated macromonomers presented by a general formula in lines 60-65 of col. 2



(this corresponds to a polyether macromonomer of the instant claim 1)

and a comonomer to be copolymerized with the unsaturated macromonomer, which is ethylenically unsaturated and contains at least one carboxylic acid-based group, which may be present in the form of a free carboxylic acid, a salt of a carboxylic acid, a hydroxyalkyl ester of a carboxylic acid, or an anhydride. Preferably, the structure of the comonomer corresponds to the formula in line 5 of col. 7. Specific illustrative comonomers include, but are not limited to, maleic acid, fumaric acid, citraconic acid, maleic anhydride, hydroxyethylacrylate, hydroxypropylacrylate, hydroxyethylmethacrylate, hydroxypropylmethacrylate, citraconic anhydride, acrylic acid, methacrylic acid, and alkali metal, alkaline earth metal, ammonium, and alkyl ammonium salts of the aforementioned acids. Acrylic acid is particularly preferred. (see paragraph bridging col.7 and 8). Polymerization temperature is from to 150°C (co. 8, lines 36, 37). Suitable initiators are described in col. 8, lines 7-20. The number average molecular weight may also be controlled as may be desired to influence the performance of the copolymer as a cement additive. Chain transfer agents of the type conventionally used in free radical polymerization such as dodecylmercaptan or

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mercaptoacetic acid may be utilized for such purpose. Typically the chain transfer agent will be present at a concentration of from about 0.1 to about 5.0 weight percent based on the total weight of the feed to the reactor. (col. 7, 46-56)

A solvent is presently utilized if the macromonomer(s) and comonomer(s) are not miscible under the copolymerization conditions. The solvent to be used in the copolymerization may be any substance in which the macromonomer and other monomers are soluble, with the preferred solvents being water, lower aliphatic alcohols such as methanol, ethanol, isopropanol and the like and mixtures thereof (col. 7, lines 57-67). Following copolymerization any relatively volatile unreacted monomers are stripped from the product. (col.8, lines 40, 41). This corresponds to the step of withdrawing the polymer from reaction zone. Since the process described by Mc Daniel is a continuous process it inherently assumes the continuous withdrawal of a polymer from reaction zone.

Therefore, the limitations of the instant claims are either expressly or inherently met by McDaniel's disclosure.

5. Applicant's arguments with respect to claims 1-5, 7 and 9 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (703) 308-8819. The examiner can normally be reached on 9:00 - 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

**Tatyana Zalukaeva, Ph.D.**  
**Primary Examiner**  
**Art Unit 1713**

*Zalukaeva*  
10/21/03